

FIRST AMENDMENT TO AMENDED AND RESTATED AGREEMENT FOR THE
TRANSPORT AND BENEFICIAL REUSE OF GREEN WASTE

THIS FIRST AMENDMENT to the Amended and Restated Agreement for the Transport and Beneficial Reuse of Green Waste ("**First Amendment**") is dated _____, 2022 ("**Execution Date**") and is between County Sanitation District No. 2 of Los Angeles County (the "**District**") - Department of Industrial Relations ("**DIR**") registration number 100010096, and Circle Green, Inc., a California company ("**Vendor**") - DIR registration number PW-LR-1000851109. The District and the Vendor are referred to in this Agreement individually as a "**Party**" and collectively as the "**Parties**".

On February 13, 2019 ("**Original Contract Date**") the District entered into an agreement entitled Agreement for Transport and Beneficial Reuse of Green Waste with Circle Green. That prior agreement provided for the Vendor to transport Green Waste from the Facilities and to provide for the beneficial reuse of that material. On December 13, 2021, the Parties entered into the Amended and Restated Agreement for the Transport and Beneficial Reuse of Green Waste ("**Amended and Restated Agreement**") which superseded and replaced, in its entirety, the 2019 agreement. The Amended and Restated Agreement amended that 2019 agreement to require the payment of prevailing wage, pursuant to *Kaanaana v. Barrett Business Services, Inc.* (2021) 11 Cal. 5th 158, and the separation of Food Waste from Green Waste by Vendor's employees at the PHMRF Facility.

The Parties desire to provide for Vendor's transportation of Green Waste (as defined below) from the Facilities and to provide for the beneficial reuse of that material. The Vendor possesses the required equipment, expertise and the proper permits and licenses to perform its beneficial reuse business.

The District's Facilities in the Amended and Restated Agreement included the Downey Area Recycling and Transfer Facility ("**DART**"). Effective August 1, 2022, the District will no longer operate DART and thus the District will no longer accept Green Waste at DART.

The Parties now intend to amend the Amended and Restated Agreement to reflect these operational changes of the District and to update the applicable DIR Wage Order.

All terms, conditions, and requirements of the Amended and Restated Agreement remain unchanged unless explicitly identified here. The Amended and Restated Agreement will be amended as follows:

1. Unless otherwise provided in this Amendment, the capitalized terms used in this First Amendment have the same meaning assigned to them in the Amended and Restated Agreement.

2. The second paragraph of the Agreement shall be stricken and replaced with the following:

The District is the operator of the Puente Hills Material Recovery Facility ("PHMRF"), located at 2280 S. Workman Mill Road, Whittier, California (the "PHMRF Facility") referred to in this agreement as the "Facilities." DIR registration number for this project is 398705.

3. Section 1.6 shall be deleted in its entirety.
4. Section 1.11 shall be stricken in its entirety and replaced with the following:

Facilities means PHMRF, as defined in this Section 1.21.

5. Section 2.2(b)(i), (iii), (v), and (vii) are deleted in their entirety.
6. Section 2.3 shall be stricken and replaced with the following:

Vendor's Pick-Up of Green Waste. The Vendor shall, upon 24 hours' notice from the District by e-mail or telephone call, be present at the time and at the Facilities designated by the District in the notice with tractors and trailers and any other equipment sufficient and necessary to transport the number of loads of Green Waste identified by the District in the notice. At a minimum, Vendor shall provide trucks with 53 foot long trailers (or equivalent) that are designed to haul approximately 23-24 tons or just under the maximum street legal weight limits (such as "walking floor" trailers) and the District shall load them with Green Waste as close as possible to the maximum street legal limits. In the event that the net weight of Green Waste placed into the Vendor's trailer by the District is consistently less than 90% of the street legal capacity of the specific truck and trailer combination, Vendor shall have the option of (i) directing the truck to the District's Facility's tipping floor, dumping the Green Waste and departing with an empty load, in which case the District shall pay the fee set forth in Section 5.4 below, or (ii) transporting the load pursuant to the terms of the Agreement. The load-out hours at the PHMRF are 4:00 a.m. to 5:00 p.m., Monday through Saturdays. These hours are subject to change by the District. If the hours change, the District will notify the Vendor in writing.

7. Section 2.12 shall be stricken and replaced with the following:

District's Representations. Except in the event Vendor has indicated that it is unable or unwilling to transport any additional tonnage above 1,500 tons per month as provided for in Section 7.2, in the event of Vendor defaults as provided for in Sections 11.2-11.4, or in the event the District elects to transfer up to a maximum of 45 tons per day Green Waste to facilities it owns, co-owns or operates in joint partnerships, the District represents that during the term of this Agreement Vendor shall be the District's sole transporter of Green Waste from the Facilities.

8. Section 5.2 shall be stricken and replaced with the following:

Tipping Fee for Transport and Diversion of Green Waste. The initial per-ton Tipping Fees for the Work are:

- A. Green Waste:
- PHMRF to BAS and then to an approved Reuse Site = \$59.00 per ton for monthly tonnage between 1 ton and 1,500 tons.

9. Section 7.1 shall be stricken and replaced with the following:

Vendor's Required Capacity. The Vendor shall provide all services included in its proposal for the RFP (which is incorporated herein by this reference) and necessary to transport and to qualify for Diversion up to 1,500 tons per month of Green Waste from the PHMRF. The Vendor shall ensure that there is adequate capacity at the Reuse Sites to accept at least 1,500 tons per month of Green Waste from the Facilities.

10. Section 7.2 shall be stricken and replaced with the following:

Additional Tonnage. If the Vendor is capable of transporting and delivering for Diversion more than 1,500 tons per month of Green Waste and the District requests in writing that the Vendor transport and deliver for beneficial reuse Green Waste from the Facilities in an amount greater than 1,500 tons per month, and the Vendor gives notice in writing that it is willing to transport more than the 1,500 tons per month, then Vendor shall indicate the amount of additional tons ("**Additional Tonnage**") per month that it is willing to transport and make all necessary arrangements to accommodate the increase in tonnage no later than 60 calendar days after the Vendor's receipt of the District's written request to accommodate the additional tonnage.

11. Attachment 2 shall be stricken and replaced with the attached Attachment 2.

Attachment 2

**General Prevailing Rate of Per Diem Wages and
General Prevailing Rate for Holiday and Overtime Work**

**PREVAILING WAGE DETERMINATION MADE BY THE DIRECTOR
OF INDUSTRIAL RELATIONS PURSUANT TO CALIFORNIA LABOR CODE
PART 7, CHAPTER 1, ARTICLE 2, SECTIONS 1770, 1773, & 1773.1**

**FOR WORK DONE AT MATERIALS RECOVERY AND RECYCLING FACILITIES PURSUANT TO
LABOR CODE SECTION 1720(A)(2) FOR IRRIGATION, UTILITY, RECLAMATION, IMPROVEMENT
DISTRICTS, AND OTHER DISTRICTS OF THIS TYPE**

Issue Date of Determination: March 21, 2022 **Determination:** MRF-1-2022-1

Expiration Date of Determination: March 20, 2023* Effective until superseded by a new determination issued by the Director of Industrial Relations. Contact the Office of the Director – Research Unit at (415) 703-4774 for the new rates after ten days after the expiration date if no subsequent determination is issued.

Locality: Los Angeles County

Craft: Materials Recovery Facility Worker

Classification	Basic Hourly Rate ¹	Health and Welfare	Pension	Vacation and Holiday	Hours	Total Hourly Rate	Overtime Hourly Rate (1 ½ X) ²	Overtime Hourly Rate (2X) ³
Belt/Floor Sorter	\$15.00	\$0.00	\$0.00	\$0.35	8	\$15.35	\$22.85	\$30.35
Laborer	\$15.00	\$0.00	\$0.00	\$0.29	8	\$15.29	\$22.79	\$30.29
Equipment Operator	\$17.75	\$0.00	\$0.00	\$0.41 ⁴	8	\$18.16	\$27.04	\$35.91

Overtime: Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of one and one-half times the Basic Hourly Rate. Any work in excess of 12 hours in one day shall be compensated at the rate of twice the Basic Hourly Rate. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at twice the Basic Hourly Rate.

Travel and Subsistence: There are no Travel and Subsistence provisions for this determination.

¹ Please be advised, local entities (cities and counties) are allowed to enact minimum wage rates and several local entities have recently adopted ordinances which establish a higher minimum wage rate for employees working within their local jurisdiction. If a local entity has adopted a minimum wage ordinance that requires a rate higher than the prevailing wage rate, employers on public works must follow the stricter standard.

² Applies to work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek

³ Applies to work in excess of 12 hours in one day and work in excess of 8 hours on any seventh day of a workweek.

⁴ \$0.75 after 1 year of employment, \$1.09 after 5 years of employment.

The Parties are signing this First Amendment as of the Execution Date.

COUNTY SANITATION DISTRICT NO. 2 OF
LOS ANGELES COUNTY

By _____
Chairperson, Board of Directors

ATTEST:

By _____
Secretary to the Board

APPROVED AS TO FORM:
LEWIS, BRISBOIS, BISGAARD & SMITH LLP

By _____
District Counsel

CIRCLE GREEN, INC.

By Kevin Sutton _____

Its: President

